

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK

Hearing Date: 10/29/2013
Hearing Time: 2:00 p.m.
Hearing Location: Syracuse, NY

In re:

SHANNON L AKEY,

Debtor(s).

Case No. **13-31227**
Chapter 13

TRUSTEE'S OBJECTION TO CONFIRMATION OF PLAN

The Trustee objects to confirmation of the plan, filed 07/11/2013 (ECF#4), in the above named debtor(s) case for the following reason:

I. FAILURE TO COMPLY WITH 11 U.S.C. §521(a)(1)(B)(iv)

That the debtor is required to file copies of all payment advices or other evidence of payment receive within 60 days before the date of the filing of the petition, by the debtor from any employer of the debtor. The debtor filed for relief on July 11, 2013. The payment advices filed under ECF#3, are from the period March 17, 2013 through May 4, 2013. The pay advices should be for the periods of May 11, 2013 through July 10, 2013.

II. DISPOSABLE INCOME

That the plan fails to provide that all the debtor's disposable income is being paid into the plan pursuant to 11 U.S.C. §1325(b)(1)(B) since upon information and belief, the debtor works approximately 15 hours overtime every week which is not included on the Form 22C or schedule I. It appears that the debtor has a substantial amount of additional income that is not listed. The debtor listed gross income of \$3687 per month on schedule I and the means test. According to the debtors pay advices from March through May 2013, the debtor grossed on average \$1167 per week or \$5,056 per month. If this figure is accurate for the six month period prior to filing, then the debtor would be over-median.

Further, the debtor requests proof of the \$1,857 per month expense item for auto

payments listed on schedule I. That figure appears excessive for two vehicles.

III. PLAN NOT COMPLETE/INACCURATE

That the plan fails to indicate a monthly payment amount, a term of the plan or a minimum amount to be paid into the plan. Further, the two auto claims are not listed in the plan. It is the Trustee's belief that the secured claims should be crammed down and paid the value through the plan with the balance to be treated as unsecured.

Further, the plan proposes to pay Bank of America \$17,690 for mortgage arrears and Oswego County \$5,788 for taxes, however, the debtor no longer owns the property.

IV. FAILURE TO PROVIDE REQUIRED DOCUMENTS

The debtor's attorney failed to provide any of the required documents to the Trustee prior to the Meeting of Creditors. The Trustee requests the following information at least 7 days prior to the Meeting in every case: copies of tax returns, deeds, certificates of title, retirement loan information, proof of values.

WHEREFORE, Trustee respectfully requests that Confirmation be denied and for such further relief as the Court deems appropriate.

Dated: Syracuse, New York
October 21, 2013

/s/ Mark W. Swimelar
Mark W. Swimelar, Chapter 13 Trustee
Bar Roll # 506340
250 S. Clinton Street, #203
Syracuse, New York 13202
315-471-1499
trustee@cnytrustee.com

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CERTIFICATE OF SERVICE

Amy E. Militi certifies that she is, and at all times hereinafter mentioned was, an employee in the office of the Standing Chapter 13 Trustee and over the age of 18 years.

That on October 21, 2013, I served the attached Objection to Confirmation on the below named by depositing a copy in a post-paid, properly addressed wrapper under the custody of the United States Post Office in a depository within the State of New York.

SHANNON L AKEY
50 SALINA STREET
LACONA, NY 13083

And that she electronically filed the foregoing with the Clerk of the Bankruptcy Court using the CM/ECF system which sent notification of such filing to the following:

Office of the U.S. Trustee
USTPRegion02.UT.ECF@usdoj.gov

A SHELDON GOULD ESQ

/s/ Amy E. Militi
Amy E. Militi